

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Terry Alan McClure,) C/A No.: 3:07-2408-GRA-JRM
)
Plaintiff,)
)
v.) ORDER
) (Written Opinion)
J. Al Cannon;)
Mitch Lucas;)
Capt. Beatty;)
Capt. Smith;)
Lt. Gallant;)
Sgt. Deckner;)
Sgt. Smalls; and)
Tact. Ofc. Torres)
)
Defendants.)
)

This matter comes before the Court to review Magistrate Judge McCrorey's Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 73.02(B)(2)(d), filed on June 4, 2008. For the reasons stated herein, this Court adopts the magistrate's Report and Recommendation in its entirety.

Procedural History

Plaintiff originally filed this *pro se* action pursuant to 42 U.S.C. § 1983 requesting injunctive relief and damages. Defendants filed a motion to dismiss on October 3, 2007. The court issued an order pursuant to *Roseboro v. Garrison*, 428 F.2d 309 (4th Cir. 1975), advising the plaintiff of the dismissal procedure and warning

him of the consequences if he did not respond to the motion. Plaintiff responded on November 15, 2007.

The magistrate now recommends the defendant's motion to dismiss be granted as to the plaintiffs claims for injunctive relief but denied as to the plaintiff's claims for monetary damages. Neither party filed objections to the Report and Recommendation.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is

not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Neither party has made objections to the magistrate's Report and Recommendation.

Conclusion

After a thorough review of the record, magistrate's Report and Recommendation, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case. Therefore, this Court adopts the magistrate's Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT the defendants' Motion to Dismiss be GRANTED with respect to injunctive relief, but DENIED with respect to monetary damages.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

August 27, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**